

IFW

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that the correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:

Date: February 26, 2007 Name: John C. Freeman, Esq.

Signature: *John C. Freeman*

BRINKS
HOFFER
GILSON
& LIONE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Georg Zehentner et al.

Appln. No.: 10/633,275

Filed: August 1, 2003

For: METHOD FOR ERROR DETECTION IN A
DRIVE MECHANISM

Attorney Docket No: 56/410

Examiner: Velez, Roberto

Art Unit: 2829

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ Response to Election/Restriction Requirement.
☒ Return Receipt Postcard

Fee calculation:

- ☒ No additional fee is required.
☐ Small Entity.
☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
☐ A petition or processing fee in an amount of \$_____ under 37 C.F.R. § 1.17(____).
☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$25=			x \$50=	
Indep.		Minus			x 100=			x \$200=	
First Presentation of Multiple Dep. Claim					+ \$180=			+ \$360=	
					Total	\$		Total	\$

Fee payment:

- ☐ A check in the amount of \$_____ is enclosed.
☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

John C. Freeman
John C. Freeman, Esq. (Reg. No. 34,483)

February 26, 2007
Date

BRINKS HOFFER GILSON & LIONE
NBC Tower – Suite 3600, 455 N. Cityfront Plaza Drive, Chicago, IL 60611-5599

BRINKS
HOFFER
GILSON
& LIONE



I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on February 26, 2007.

Name of Registered Representative:

John C. Freeman
John C. Freeman, Reg. No. 34,483

February 26, 2007
Date of Signature

PATENT
CASE NO. 56/410

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application:)
)
Georg Zehentner et al.)
) Group Art Unit: 2829
)
Serial No.: 10/633,275)
) Examiner: Velez, Roberto
Filed: August 1, 2003)
)
For: METHOD FOR ERROR)
DETECTION IN A DRIVE)
MECHANISM)

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This election of species is in response to the Restriction Requirement mailed January 26, 2007. In the Restriction Requirement, Applicants were required to make an election of species between the species of claims 1-12, 17, 18 and 37 (Species A), the species of claims 1 and 13-15 (species B), the species of claims 1 and 16 (Species C), the species of claims 1 and 19 (Species D),

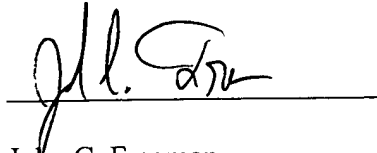
the species of claims 1 and 20-25 (Species E), the species of claims 1 and 26-30 (species F) and the species of claims 1 and 31-36 (Species G). Applicants elect, with traverse, Species A, claims 1-12, 17, 18 and 37.

Applicants traverse the restriction requirement for several reasons. First, an election of species can be required when the “application includes claims directed to different embodiments or species that could fall within the scope of a generic claim . . . if the species are independent or distinct” (emphasis supplied). Accordingly, a restriction requirement regards the identification of distinct embodiments and having the Applicants elect an embodiment for prosecution and identify the claims that correspond to the elected embodiment. In the present case, the Restriction Requirement does things in reverse by asserting that certain species correspond to certain claims without identifying which embodiments described in Applicants’ Specification are independent and distinct. Since the Restriction Requirement has failed to identify embodiments in Applicants’ Specification that are independent and distinct, the Restriction Requirement is improper and should be withdrawn.

Even if the Restriction Requirement is of proper firm, Applicants believe that claims 1-19 should be examined together since they regard a single embodiment and there would be significant overlap in the searches for the inventions of claims 1-19. Applicants traverse the restriction of claims 20-36 into three species since they are directed to an embodiment that includes the inventions of claims 1-19 and there would be no undue hardship for the Examiner to examine each species. Accordingly, the election/restriction requirement is improper and should be withdrawn.

Note that Applicants reserve the right to file one or more divisional applications regarding claims 13-16 and 19-36.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J.C. Freeman", is written over a horizontal line.

John C. Freeman
Registration No. 34,483
Attorney for Applicants

BRINKS HOFER
GILSON & LIONE
P.O. Box 10395
Chicago, Illinois 60610
(312) 321-4200

Dated: February 26, 2007